

REMARKS

The Office Action dated March 31, 2009, has been received and the following remarks form a full and complete response thereto. Applicants express gratitude to the Examiner for the rejoinder of claims 24-30 and the withdrawal of the anticipation rejection. Reconsideration of the Office Action rejections is respectfully requested. Claims 24, 29, and 30 have been canceled and new claim 37 has been added. Claims 25-27 have been amended only to depend from newly added claim 37. Claim 28 has been amended to clarify formal issues. Support for new claim 37 can be found on page 15, line 10 to page 16, line 10 of the specification and Figure 6.

Response to Rejections under 35 U.S.C. 103

Claims 18-30 were rejected under 35 U.S.C. 103(a) as being obvious over Zaborney (U.S. 4,608,323) in view of Floyd (U.S. 5,320,893) and Barth et al. (U.S. 6,294, 233). The Examiner asserts that Zaborney discloses a metallic printed layer on a substrate of a label that is covered with a top layer and sealed around the edges with adhesive to prevent corrosion of the ink layer (see Figure 2b, element 11, abstract, col. 3, lines 50-60). The Examiner acknowledges that Zaborney does not disclose forming a gap in a metal layer around the edge of the label and filling the gap with an edge strip, but asserts that Floyd discloses sealing of a metallic layer on a substrate between two plastic layers by cutting the metal layer near the edge to form a gap, with plastic from the outer layer filling the gap when the layers are laminated with heat and pressure (abstract, Figures 1-4) and Barth discloses using a liquid resin which cures to fill a gap at the end of a metal layer subject to corrosion (abstract). The Examiner

asserts that it would have been obvious to one of ordinary skill to have sealed the edge of the metallic ink layer of Zaborney by cutting a gap near the edge of the label, and filling it with liquid resin that is allowed to cure, in order to allow printing throughout the surface of the substrate in view of Barth and Floyd. Applicants respectfully disagree.

Applicants submit that new claim 37 comprises additional label-specific features which define the label in such a way that it would not be rendered obvious by the combination of Zaborney with Floyd and/or Barth, if such a combination could even be made. A substantial feature is that the label, contrary to Zaborney, can be manufactured from a semi-finished composite film material, in particular a superficially metallized plastic film, wherein the material of the laminated layer and/or of the contact adhesive layer can be utilized for sealing the gap of the marginal edge of the metallization layer, the sealing of the gap being effected in the course of manufacture of the label and not during application of the label.

The disclosure of Barth and Floyd do not allow sealing an inside metallization layer of a film composite along its marginal edge prior to application on an object intended for this purpose. This is because Floyd and Barth relate to sealing glass panes of a window or the like. For the use as a label, however, it is essential that the label is already protected when applied, so that there is no need for the label to undergo further treatment after its application. Thus, one of ordinary skill in the art of

making battery labels would not be motivated to combine Zaborney with either of Barth or Floyd.

Floyd is directed to a method of protecting a metal layer of a solar reflecting coating on a window by cutting the coating and filling it with a resin to block the edge wall of the coating from the surrounding atmosphere. Applicants submit that, in Floyd, the metallization layer 18 is applied on a shrinkable layer 16 which is being heated when assembling the film composite with the glass panes 38, 40 arranged on both sides and which expands the gap cut into the metallization layer 18 by shrinking back. The layers 20, 22 enclosing the metallization layer in the film composite consist of a thermoplastic material which melts under the influence of heat and which is pressed into the gap due to the pressure applied on the glass panes 38, 40 (Fig. 4). The layer composite is unprinted and cannot be printed at all, because the layers 20, 22 are melted for bonding to the glass panes. Therefore, the composite known from Floyd is not suitable for use as a label, and the gap can only be filled for sealing the metallization layer after placing the film composite between the two panes 38 and 40.

Moreover, because Floyd is not related to a battery label, the coating is never required to form a closed cylinder. Thus, Floyd only teaches prelamine comprising a metallic layer (18) which is bonded on one side with a first PVB layer (20), and on its other side by a plastic substrate layer (16) which is bonded to a second PVB layer (22). A cut is made through the first PVB layer (20), metal layer (18), the plastic layer

(16) and the prelamine is heated to allow the PVB to flow through and to seal off the metal layer so that corrosion will not spread through the laminate from the edges.

Floyd does not disclose or suggest a sealing strip which fills the gap and covers the marginal edge of the metallization layer as recited in claim 37. Further, Floyd does not disclose covering the cutout with a sealing strip extending at least over the thickness of the metallization layer with the sealing strip extending into the cutout as recited in claim 18.

Barth is directed to an edge-sealed window film similar to Floyd. The edges of the window film are sealed using a liquid solvated polymeric material which, upon curing, provide a solid transparent seal to prevent corrosion of a metal material. Barth does not disclose or suggest covering a cutout with a sealing strip extending at least over the thickness of the metallization layer with the sealing strip extending into the cutout as recited in claim 18. Furthermore, Barth does not disclose or suggest at least one of a laminating layer and a pressure sensitive adhesive layer extending into a gap to form a sealing strip which fills the gap and covers the marginal edge of the metallization layer (31c) over the thickness thereof. Rather, the sealant (S) of Barth merely fills in a space between the window frame and the film so that the atmosphere cannot penetrate the film (see Fig. 1 of Barth). Applicants submit that Barth does not disclose a film composite in which, as such, any marginal edges of a metallization layer can be sealed before the film composite is applied to an object, in this case the glass pane.

The battery label of Zaborney is a jacket, i.e. it wraps around the battery and overlaps so that the transparent portion can be sealed over the portion of the metallic ink containing decoration (see col. 5, lines 22-26 of Zaborney). Firstly, it would not be obvious for one of ordinary skill to combine Floyd and Barth with Zaborney to arrive at the present invention because Floyd and Barth relate to window solar coating laminates, while Zaborney discloses a battery label. As such, the laminates of Floyd and Barth are not designed to be wrapped around a cylindrical object with the peripheral edges connecting in such a way as to seal in a metallic layer. Rather, Floyd and Barth intend to stop corrosion from propagating inward from the walls of laminate films into the major planar expanse of films adhered flatly to windows (see col. 5, lines 32-43 of Floyd and Figure 1 of Barth). Furthermore, Zaborney does not contain layers which can be heated so that PVB (or any other component) can flow through a channel formed through the layers to seal off the metallic layer as taught in Floyd. In fact, there is no mention of or need for a channel in Zaborney. Similarly, Zaborney does not have any gap to be filled by the sealant (S) of Barth. Applicants submit that there would be no motivation to alter the battery label of Zaborney to incorporate PVB layers or to eliminate the sealing mechanism of overlapping the transparent portion over the metallic portion and replace it with a mechanism of melting a PVB layer to allow PVB to flow through a channel in the layers or to create a "gap" and fill it with sealant. Moreover, even if these purported combinations were made, they do not arrive at the presently claimed method which comprises covering the cutout with a

sealing strip extending at least over the thickness of the metallization layer with the sealing strip extending into the cutout as recited in claim 18. Similarly, the combination of Floyd and Barth with Zaborney does not render obvious a label comprising a metallization layer wherein at least one of a laminating layer and a pressure sensitive adhesive layer extends into a gap to form a sealing strip which fills the gap and covers the marginal edge of the metallization layer (31c) over the thickness thereof as recited in claim 37.

Based on the above reasoning, Applicants submit that independent claims 18 and 37 are not rendered obvious by the cited art. Applicants do not believe that Zaborney can be properly combined with either of Floyd or Barth, but even if these references could be combined, the combination would not render obvious the presently claimed method and battery label. Thus Applicants respectfully request that the rejections be withdrawn and claims 18-23, 25-30, and 37 be allowed.

Conclusions

In view of the above, all objections and rejections have been sufficiently addressed. The Applicants submit that the application is now in condition for allowance and request that claims 18-23, 25-30, and 37 be allowed and this application passed to issue.


In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by

telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

July 31, 2009
Date


Robert B. Murray
Attorney for the Applicants
Reg. No. 22,980
ROTHWELL, FIGG, ERNST & MANBECK
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005
(202) 783-6040

RBM/AHH

1636629